

EXHIBIT 8

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

**MASS ENGINEERED DESIGN, INC. and
JERRY MOSCOVITCH**

Plaintiffs

VS.

ERGOTRON, INC., DELL INC., CDW CORPORATION, and TECH DATA CORPORATION

Defendants

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CASE NO. 206 CV 272
PATENT CASE

MEMORANDUM OPINION AND ORDER

This opinion considers Defendant CSAV Inc.’s (“CSAV”) Brief on Claim Construction (Docket No. 345).

BACKGROUND

Previously, the Court issued an opinion (Docket No. 266) construing the disputed terms of U.S. Patent Nos. RE 36,378 (the “‘978 patent”) and 5,673,170 (the “‘170 patent”). Subsequent to that opinion, MASS moved to add two additional defendants, Bretford, Inc. and CSAV. The Court granted leave and gave both Bretford and CSAV the opportunity to submit briefing on claim construction arguments not previously considered by the Court. CSAV submitted its briefing, requesting that the Court include additional structure for two means-plus-function limitations from the ‘978 patent— “support means for supporting” and “mounting means for mounting the displays to the arm assembly.”

ANALYSIS

Support means

The parties agree that both Figure 7 and Figure 19 depict the proper structure. The Court previously identified the necessary structure contained in those figures. CSAV contends that the Court's construction should be modified to state that the circular recess 34 (Fig. 7) and socket 206 (Fig. 19) are formed in the upright. Neither MASS nor the other Defendants disagree. Therefore, according to the parties agreement, the necessary structure is either upright 20, circular recess 34 in upright 20, washer 36, and bolt 38 as depicted in Figure 7 or upright 158, socket 206 in upright 158, plug 208, and bolt 210 as depicted in Figure 19.

Mounting means for mounting the displays to the arm assembly

The parties agree that the Figure 8 and 9 embodiment and Figure 20 embodiment depict necessary structure for this limitation. For the Figure 20 embodiment, the parties agree to add screws 188, plug 194, socket 198 (or 202 or 204), and bolt 200 as necessary structure.

For the Figure 8 and 9 embodiment, CSAV contends that the Court's construction should also include hole 72, cylindrical socket 76, split washer 79, and tabs 80 and 82. CSAV focuses its brief on the necessity of hole 72 and tabs 80, 82. Neither MASS nor the other Defendants oppose adding hole 72 or tabs 80 and 82 to the construction. However, MASS does oppose adding cylindrical socket 76 and split washer 79.¹

CSAV does not offer any evidence that socket 76 or washer 79 are necessary structure; it

¹ It is unclear whether Defendants Ergotron, Inc., CDW Corporation, Tech Data Corporation, Dell Marketing LP, and Dell Inc. ("Defendants") support CSAV's request to add "cylindrical socket 76" or "split washer 79." Defendants submitted a reply brief stating they concurred with CSAV's proposed construction of the disputed terms, "to the extent Plaintiffs also agreed." Docket No. 358 at 1 Defendants then request "the Court adopt CSAV's proposed, uncontested constructions of the disputed terms." *Id.* Apparently, Defendants take no position on whether the Court should adopt the "cylindrical socket 76" or "split washer 79."

merely concludes, without explanation, that socket 76 and washer 79 are necessary structure. The specification only mentions split washer 79 once, when it teaches, “[t]he shaft 58 has an annular flange 78 that presses a split washer 79 against the circular seating surface 74. . . .” ‘978 patent, Col. 4:34–36. The specification does not teach how washer 79 is necessary to perform the mounting function. Accordingly, washer 79 is not necessary structure. *See Northrop Grumman Corp. v. Intel Corp.*, 325 F.3d 1346, 1352 (Fed. Cir. 2003) (“a court may not import into the claim features that are unnecessary to perform the claimed function”).

With respect to cylindrical socket 76, the specification states that shaft 58 is inserted into socket 76. ‘976 patent, Col. 4:34–43. However, the specification teaches that the tabs 80, 82, not the socket 76, prevent the shaft 58 from detaching from the arm 18. *Id.* Col. 4:43–45.² As with split washer 79, the specification does not teach how socket 76 is necessary to mount the display to the arm assembly. Therefore, cylindrical socket 76 is not necessary structure. *See Northrop Grumman*, 325 F.3d at 1346.

CONCLUSION

For the aforementioned reasons, the Court amends the construction of “support means” and “mounting means.” Below is an amended version of Appendix B to Docket No. 344 reflecting such changes.

So ORDERED and SIGNED this 7th day of August, 2008.



LEONARD DAVIS
UNITED STATES DISTRICT JUDGE

² In its motion, CSAV states, “The tabs 80,82 keep the ball-joint shaft 58 secured to the arm 18” but makes no mention of the cylindrical socket 76. Docket No. 345 at 8.

APPENDIX B

U.S. Patent No. RE 36,978	
Disputed Claim Terms	Court's Construction
base member (Claim 16)	the lowermost portion of the system that supports the arm assembly above a surface
base (Claim 17)	[AGREED] same meaning as “base member”
electronic displays (Claims 16 and 17)	[AGREED] electronic devices that represent information in visual form
positioning means for positioning displays (Claims 16 and 17)	apparatus used to position the displays
arm assembly (Claims 16 and 17)	a structure having one or more constituent parts connected to and projecting from the support means
support means for supporting the arm assembly from the base member (Claim 16)	<p>Function: supporting the arm assembly from the base member</p> <p>Structure: upright 20, circular recess 34 in upright 20, washer 36, and bolt 38 (Figure 7)</p> <p>OR</p> <p>upright 158, socket 206 in upright 158, plug 208, and bolt 210 (Figure 19)</p>
support means having a base for supporting the arm assembly above a support surface (Claim 17)	<p>[AGREED] Function: Same as “support means for supporting the arm assembly from the base member”</p> <p>[AGREED] Structure: Same as “support means for supporting the arm assembly from the base member”</p>
support surface (Claim 17)	surface that supports the base
mounting means for mounting the displays to the arm assembly (Claims 16 and 17)	<p>Function: mounting the displays to the arm assembly</p> <p>Structure: ball 56, shaft 58, socket 60, hole 72, tabs 80, 82, rear of the display 16, plus equivalents (Figures 8 and 9).</p> <p>OR</p> <p>ball 172, shaft 174, socket 170 with flat surface 190, shell 184 with flat 192, plate 182, screws 186, screws 188, plug 194, socket 198 (or 202 or 204), bolt 200, rear of the display 152, plus equivalents (Figure 20).</p>

U.S. Patent No. RE 36,978	
Disputed Claim Terms	Court's Construction
means for adjusting the angular orientation of each of the displays relative to the arm assembly (Claims 16 and 17)	[AGREED] Function: adjusting the angular orientation of each of the displays relative to the arm assembly [AGREED] Structure: Same as “mounting means for mounting the displays to the arm assembly”
angled toward each other to a desired degree (Claim 16)	[AGREED] No construction
angles relative to each other to a desired degree (Claim 17)	[AGREED] No construction